

REMARKS/ARGUMENTS

Claims 1-12 are active.

Applicants thank the Examiner for withdrawing the previous grounds of rejections.

Two new obviousness rejections are raised citing the new Bhattacharyya publication with the previously cited Ciszewska or Ciszewska and MacDonald.

The claimed process of producing (-)-(S)-3-[1-(dimethylamino)ethyl]phenyl-N-ethyl-N-methylcarbamate (rivastigmine) of formula II involves:

- (1) reductive amination;
- (2) O-dealkylation to the racemic amine;
- (3) resolution with an optically active acid; and
- (4) reaction with a compound of formula VII. (see Claim 1).

While Bhattacharyya does describe reductive amination as outlined in the Action, this is but one partial step in the overall process, step (1) noted above. This is, of course, why the previously cited Ciszewska and MacDonald publications are combined in the rejections (see, e.g., page 3, 4th paragraph). However, that Ciszewska teaches O-dealkylation among other things, the fact remains that MacDonald teaches that attempts to directly resolve with optically active acids were unsuccessful.

MacDonald makes it quite clear that attempts to effect direct resolution with optically active acids (i.e., to effect the third step in the claimed process) were unsuccessful (page 2513, second paragraph of MacDonald). (see MPEP §2141.02: "prior art must be considered in its entirety, including disclosures that teach away from the claims"). A skilled person would take from MacDonald even in view of what is described by Bhattacharyya and Ciszewska that such direct resolution does not work.

The claimed process advantageously provides optically active products at high optical purity which do not racemize in subsequent treatment. For example, see page 5, 4th paragraph:

As is demonstrated in the examples of especially preferred embodiments, the present method makes it possible for obtaining the product of formula I in an especially high optical purity. A reproduction of the method known so far, even with recrystallization, has not resulted in obtaining such high optical purity.

Further, as explained previously, Ciszewska does not perform a resolution using an optically active acid as in the claimed process because Ciszewska uses stereoselective reduction compared to resolution with an optically active acid.

Withdrawal of the rejection is requested.

Finally, a Notice of Allowance is kindly requested.

Respectfully submitted,

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